

CR 198/2007.

31.12.2007. Present: Mr. Rajesh Kumar Sharma, counsel for the petitioner.
Mr. K.S. Banyal, counsel for respondent Nos. 1 to 3.

Civil Revision No. 198/2007.

This revision petition has been preferred by the plaintiff, who is the petitioner herein, against the order passed by the learned trial court dismissing application under Order 17 Rule 14 (3) of the Code of Civil Procedure filed by the plaintiff-petitioner, praying for permission to place on record document in the nature of demarcation report which the plaintiff-petitioner avers is not in his possession and which according to him is necessary for the just determination of the appeal. The learned trial court, dismissed the application primarily on the ground that the plaintiff-petitioner could have procured this report earlier. He, therefore, proceeded to dismiss the application.

I have heard learned counsel for the parties. Order 7 Rule 14 sub Rule 3 does not confer absolute and unfettered right on the plaintiff to produce documents at any stage of the suit. It gives power to the court to allow such production at a latter stage with the leave of the court which may be granted on sound judicial principles. The averments in the application show that the plaintiff wanted to produce in evidence a demarcation report which was not in his custody but which was to be procured from the revenue authorities. Learned trial court has ignored this fact and proceeded to dismiss the application only on the purported ground of delay. The learned trial court has not exercised its jurisdiction in accordance with principles well established by law. This

petition is accordingly allowed. Order under revision is quashed and set aside. The plaintiff-petitioner is granted permission to produce the document as produced by him. This will be subject to the condition that the plaintiff-petitioner shall pay Rs. 3300/- as costs to the defendants on the first date when the parties appear before the learned trial court after remand of this case.

Parties to appear before the trial court on **25.2.2008**. It is clarified that in case costs is not paid, order against which the revision has been filed shall revive

CMP Nos. 938 and 939/2007.

Dismissed.

31st December, 2007.
(cm)

(Dev Darshan Sud)
Judge.

